

#8

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No.: NCI 7387US

Date: January 15, 2002

In re application of: Allen W. Thorpe, et al.

Serial No.: 09/463,001

Filed:

For: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES AND METHODS
OF MAKING THEMBox PCT – Attn: PCT Legal Office
Commissioner of Patents
Washington, DC 20231January 15, 2002
St. Louis, Missouri**REQUEST TO CONSIDER RESPONSE
TO DECISION ON PETITION AS TIMELY FILED ON NOVEMBER 16, 2001**

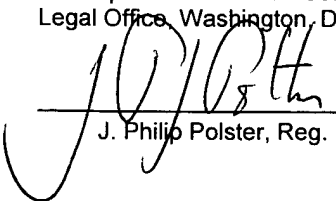
Sir:

In response to the Decision in response to the Decision on Petition under 37 C.F.R. §1.47(a) mailed May 17, 2001 applicants filed a Response on November 16, 2001, attached hereto. The Response was returned to the undersigned today.

Due to the anthrax letters following September 11, 2001 and postal interruption for zip code 20231, applicants' Response was apparently irradiated. The result of the apparent irradiation was obliteration of applicants' heat-sensitive mailing label, which read: "Commissioner for Patents, Office of PCT Legal Administration, Box PCT, - ATTN: Box PCT, Legal Office, Washington, DC 20231." However, after the apparent irradiation of the label, because the label is heat sensitive, the address is no longer

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, Office of PCT Legal Administration, Box PCT – Attn: Box PCT – Legal Office, Washington, D.C. 20231, on January 15, 2002.


J. Philip Polster, Reg. No. 24,739JAN 15, 2002
Date of Signature

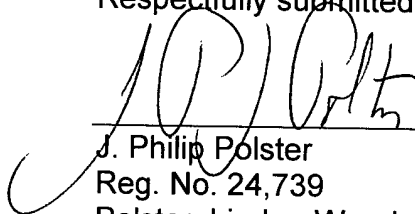
visible and the envelope was returned to sender. See enclosed original envelope. Another indication of apparent irradiation is the fact that applicants' original papers have been turned to yellow by extreme heat.

Applicants' original submission contains a proper certificate of mailing under 37 C.F.R. § 1.8(a). Additionally, a Response to a Decision on Petition is a document entitled to the benefit of a Certificate of Mailing under 37 C.F.R. §1.8(a). Applicants, therefore, request the Commissioner to consider the date of receipt of the enclosed Response to the Office Action as the date of the Certificate of Mailing of November 16, 2001 under 37 C.F.R § 1.8(a).

The original papers and the original envelope are enclosed herewith. Should the Office need clean copies, it is requested that applicants' undersigned attorney be called at 314-872-8118, Extension 426

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §§ 1.16 and 1.17 that may be required by this paper to Deposit Account 162201. Duplicate copies of this sheet are enclosed.

Respectfully submitted,



J. Philip Polster
Reg. No. 24,739
Polster, Lieder, Woodruff & Lucchesi
763 South New Ballas Road
St. Louis, MO 63141
Telephone 314-872-8118
Fax No. 314-991-2178

Docket No.: NCI 7387US

Date: November 16, 2001

In re application of: Allen W. Thorpe, et al.

Serial No.: 09/463,001

Filed:

For: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES AND
METHODS OF MAKING THEM

Box pct – attn: pct legal Office

Commissioner for Patents

Washington, D.C. 20231

Sir:

Transmitted herewith is:

- ☒ A Renewed Petition Under 37 CFR 1.47(a)
- ☒ Statement of Facts In Support of Filing on Behalf of Nonsigning Inventor
- ☒ Three letters from J. Philip Polster to Malkit S. Deogon, with attachments and Federal Express delivery documents
- ☒ Extension of Time for Four Months for Filing Request for Reconsideration (Renewed Petition)
- ☒ Check in the amount of \$720.00 to cover the fee for four months extension of time

The Commissioner is hereby authorized to charge any additional fees or credit overpayment under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account 162201. *Duplicate copies of this sheet are enclosed.*

01/25/2002 ELANDGR 00000076 09463001

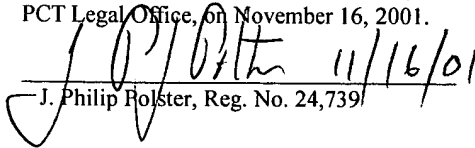
01 FC=216

720.00 DP


J. Philip Polster

Registration No: 24,739

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Office of PCT Legal Administration, Box PCT, Washington, D.C. 20231, ATTN: Box PCT Legal Office, on November 16, 2001.


J. Philip Polster, Reg. No. 24,739

11/16/01
Date of Signature

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Allen W. Thorpe, et al.

GROUP:

SERIAL NO.: 09/463,001

EXAMINER:

FILED:

DOCKET NO.: 7387

FOR: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES
AND METHODS OF MAKING THEM

35 U.S.C. § 371 of PCT/US98/14775, filed July 16, 1998

November 16, 2001

Box PCT - ATTN: PCT Legal Office
Assistant Director for Patents
Washington, D.C. 20231

RENEWED PETITION UNDER 37 CFR 1.47(a)

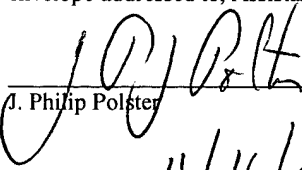
This paper is being filed in response to the Decision in response to the Decisions
on Petition under 37 C.F.R. §1.47(a) mailed May 17, 2001.

Applicants hereby renew their Petition under 37 CFR § 1.47(a) filed on 30
November 2000 for acceptance of the above-identified application where one of the
named inventors refuses to join in the application.

01/25/2002 LLANDGRA 00000075 09463001

02 FC:122 130.00 CP

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an
envelope addressed to, Assistant Commissioner for Patents, Washington, D.C. 20231 on November 16, 2001


J. Philip Polster

RN 24,739

11/16/01

Date

The Decision on Applicants' previous petition, indicates that the Petition under 37 CFR § 1.47(a) filed on 30 November 2000 lacked documentary proof to corroborate the statements of the undersigned attorney that the application papers were sent to Mr. Deogon and that he received them. The Decision also indicates that no statement by Mr. Feldman was filed attesting to his discussion with Mr. Deogon and detailing the time and place of the call. Therefore, the factual proof that Mr. Deogon refuses to execute the application is deemed to be missing.

Finally, the Decision indicates that the declaration on behalf of the non-signing inventor is defective because it was not signed by all the inventors and does not identify inventor Deogon on the declaration.

Enclosed herewith are copies of the undersigned attorney's correspondence to Malkit Deogon and copies of Federal Express proof of delivery of the first two letters mentioned in the previous Petition under 37 CFR § 1.47(a) filed on 30 November 2000.

Also enclosed is a statement by Rubin Feldman as to the discussion, detailing the telephone discussions he had with Malkit Deogon, including their time and place.

Also enclosed is a declaration signed by the three other inventors on behalf of Malkit Deogon.

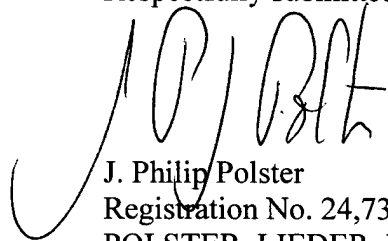
It is concluded by the "37 CFR 1.47 applicants" that the nonsigning inventor's conduct constitutes a refusal to execute the application. It is believed that the foregoing

declarations and documentary evidence support that conclusion, and it is respectfully requested that a filing date of January 14, 2000 be granted to the application and that the application be passed to examination.

Should this response be deemed to be incomplete in any way, it is respectfully requested that applicants' undersigned attorney be contacted by telephone at 314-872-8118, extension 426.

Please charge any additional fees required by this paper, beyond the enclosed check for the extension of time, to our deposit account No. 162201.

Respectfully submitted,



J. Philip Polster
Registration No. 24,739
POLSTER, LIEDER, WOODRUFF
& LUCCHESI, L.C.
763 South New Ballas Road
St. Louis, MO 63141
(314) 872-8118
(314) 991-2178 (fax)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Allen W. Thorpe, et al. GROUP:
SERIAL NO.: 09/463,001 EXAMINER:
FILED: DOCKET NO.: 7387
FOR: (AS AMENDED) THERMAL PROTECTIVE STRUCTURES
AND METHODS OF MAKING THEM

35 U.S.C. § 371 of PCT/US98/14775, filed July 16, 1998

Box PCT - ATTN: PCT Legal Office
Assistant Director for Patents
Washington, D.C. 20231

**STATEMENT OF FACTS IN SUPPORT OF
FILING ON BEHALF OF NONSIGNING INVENTOR**

I, Rubin Feldman, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1. I am one of the named inventors of the above-identified application.
2. I am president of Nu-Chem, Inc., the assignee of the application.
3. Malkit S. Deogon has left the employ of Nu-Chem, Inc., and has moved to England. On information and belief, his current address is 23 Vicrage Road, Edgbaston, Birmingham B15 3HB, ENGLAND.

4. On information and belief, my attorney, J. Philip Polster, requested that Dr. Deogon sign the declaration for the application.

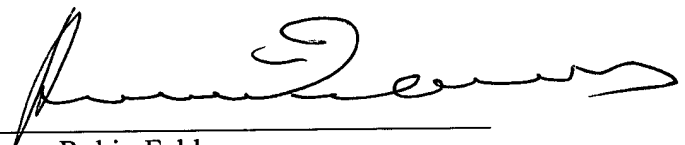
5. In late October or early November of 2000, Dr. Deogon called me in St. Louis County, Missouri, and indicated that he would probably sign the declaration. He also talked about performing consulting work for Nu-Chem, Inc. I believe that Dr. Deogon was in Birmingham, England when he called.

6. On information and belief, on or about November 20, 2000, Dr. Deogon called Nu-Chem, Inc. in St. Louis County, Missouri, and said that he needed to have further discussions with me. I believe that Dr. Deogon was in Birmingham, England when he called.

7. In later conversations, with Dr. Deogon, while he was in England, he has talked about performing consulting work for Nu-Chem, Inc., but he has not given any indication that he intends to sign the declaration.

8. Based on the foregoing facts, I believe that Malkit S. Deogon has refused to join in the above-identified application by signing the declaration.

Date: 11/14/01



Rubin Feldman

DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION

As a below named inventor, I hereby declare that: My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled METHODS OF MAKING HIGH TEMPERATURE GLASS FIBER AND THERMAL PROTECTIVE STRUCTURES, the specification of which was described and claimed in PCT International Application No. PCT/US98/14775, filed July 16, 1998 and as amended under Article 34, attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT International applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Serial No. 08/895,918 Filed July 17, 1997 Now U.S. Patent 6,001,437

PCT/US98/14775 Filed July 16, 1998

I hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Philip B. Polster, Reg. No. 16,554, Frederick M. Woodruff, Reg. No. 15,301, J. Philip Polster, Reg. No. 24,739, Lionel L. Lucchesi, Reg. No. 25,891, William G. Bruns, Reg. No. 19,541, Edward A. Boeschenstein, Reg. No. 22,986, William B. Cunningham, Jr., Reg. No. 26,155, Ralph B. Brick, Reg. No. 17,444, Michael Kovac, Reg. No. 22,140, McPherson D. Moore, Reg. No. 28,449, J. Joseph Muller, Reg. No. 28,450, Richard J. Sher, Reg. No. 27,282, Jonathan P. Soifer, Reg. No. 34,932, Ned W. Randle, Reg. No. 35,989, Martha A. Michaels, Reg. No. 20,453, Mark E. Books, Reg. No. 40,918, Catherine W. Wall, Reg. No. 42,209, and Philip B. Polster, II, Reg. No. 43,864.

Direct all telephone calls to J. Philip Polster at Telephone No. (314) 872-8118.

Address all correspondence to Customer Number 001688.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First Inventor: Allen W. Thorpe

Full name of Second Inventor: Edward W. Taylor, Jr.

Full name of Third Inventor: Rubin Feldman

Full name of Fourth Inventor: Malkit S. Deogon

Inventor's Signature: _____ Date: _____

Residence: City of _____

Citizenship: _____

Post Office Address: _____

LAW OFFICES
POLSTER, LUCCHETTI, WOODRUFF & LUCCHETTI, L.C.

763 SOUTH NEW BALLAS ROAD
ST. LOUIS, MO 63141-8750
TELEPHONE (314) 872-8118
FACSIMILE (314) 991-2178
E-MAIL plwl@patpro.com

J. PHILIP POLSTER
E-MAIL: jpolster@patpro.com

PATENT, TRADEMARK, COPYRIGHT,
TRADE SECRET AND UNFAIR COMPETITION

October 2, 2000
Via Federal Express

Malkit S. Deogon
23 Vicrage Road
Edgbaston, Birmingham B15 3HB
ENGLAND

URGENT

**Re: Methods of Making High Temperature Glass Fiber
And Thermal Protective Structures
Our DN 7387US**

Dear Dr. Deogon:


I wrote to you in July asking you to sign and return a declaration and power of attorney for a pending U.S. application. A copy is enclosed. The Patent and Trademark Office deadline for responding has passed, and we are running out of extensions of time.

Is there any problem with the document? We urgently need to file it. Even a faxed copy would be sufficient, but we do need to file something in the next few days.

If the declaration is accurate, please sign and date it as indicated and return it to me for filing with the Patent and Trademark Office, either by mail or fax. Our fax number is 314-991-2178 (preceded by the US national code).

If you see any problems, please let me know. By far the easiest way to correspond these days is by e-mail to jpolster@patpro.com. My telephone is 314-872-8118, extension 426. Either way, it will be good to hear from you.

Yours truly,


J. Philip Polster

enclosure

LAW OFFICES
POLSTER, FEDER, WOODRUFF & LUCAS, P.C.

763 SOUTH NEW BALLAS ROAD
ST. LOUIS, MO 63141-8750

TELEPHONE (314) 872-8118

FACSIMILE (314) 991-2178

E-MAIL plwl@patpro.com

J. PHILIP POLSTER

E-MAIL: jpolster@patpro.com

PATENT, TRADEMARK, COPYRIGHT,
TRADE SECRET AND UNFAIR COMPETITION

July 25, 2000
Via Federal Express

Malkit S. Deogon
23 Vicrage Road
Edgbaston, Birmingham B15 3HB
ENGLAND

**Re: Methods of Making High Temperature Glass Fiber
And Thermal Protective Structures
Our DN 7387US**

Dear Dr. Deogon:

I finally have an excuse to try to catch up with you and learn how you are doing.

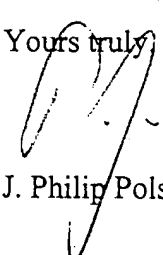
In filing the U.S. national phase of the PCT application on the method of making high temperature glass fiber, we have been requested to obtain your signature on the "declaration" form. I am therefore enclosing a copy of the PCT application, together with a declaration stating that you are one of the named inventors, and that you participated in the invention of at least one of the claims of the application.

Please review the declaration, and if it is accurate sign and date it as indicated and return it to me for filing with the Patent and Trademark Office.

If you see any problems, please let me know. By far the easiest way to correspond these days is by e-mail to jpolster@patpro.com. If you prefer, our fax number is 314-991-2178 and my telephone is 314-872-8118, extension 426.

It will be good to hear from you.

Yours truly,


J. Philip Polster

enclosure

LAW OFFICES
POLSTER, LINDER, WOODRUFF & LUCCHINI, L.C.

763 SOUTH NEW BALLAS ROAD
ST. LOUIS, MO 63141-8750
TELEPHONE (314) 872-8118
FACSIMILE (314) 991-2178
E-MAIL plwl@patpro.com

J. PHILIP POLSTER
E-MAIL: jpolster@patpro.com

PATENT, TRADEMARK, COPYRIGHT,
TRADE SECRET AND UNFAIR COMPETITION

November 17, 2000
Via Federal Express

Malkit S. Deogon
23 Vicrage Road
Edgbaston, Birmingham B15 3HB
ENGLAND

URGENT

**Re: Methods of Making High Temperature Glass Fiber
And Thermal Protective Structures
Our DN 7387US**

Dear Dr. Deogon:


Thank you for your call. It was indeed good to hear your voice.

I understand that you have talked with Rubin and that you have agreed to sign the declaration and power of attorney for the pending U.S. application. The absolute deadline for filing this paper is in a few days. It must be in the Patent and Trademark Office before the end of the month.

I am enclosing a copy of the declaration, along with a Federal Express envelope. The label will ensure that the Fed Ex charges will be paid by us, so there will be no out-of-pocket expense to you.

If the declaration is accurate, please sign and date it as indicated and return it to me for filing as soon as possible.

Yours truly,


J. Philip Polster

enclosure

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3 To Recipient's Name

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City BIRMINGHAM B15 State AL ZIP 35213

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Fax: 1 314 991 2178

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Employee Signature

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Employee Number

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<i>[Signature]</i>	L. SHORE		448409063340	10			1 PP 0948	3
<i>[Signature]</i>	CHARLES GARGANEN		8191 4643 9061	BEE FL 21			1 CS 0955	4
<i>[Signature]</i>	CJ. LITTLE		79085400174	43 CAL BS			1 PP 1006	5
<i>[Signature]</i>			7903 7119 0981				1 PP	6
<i>[Signature]</i>	W. ORNSTEIN		803957304064	B. UNI			1 PP 1015	7
<i>[Signature]</i>	A COOPER		478198457168				1 PP 1020	8
<i>[Signature]</i>			40031529875	VIN			1 R 1026	9
<i>[Signature]</i>			790883610437				1 PP	10
<i>[Signature]</i>			418945882371				1 PP	11
<i>[Signature]</i>	P. DODIE		790883986142				1 PP	12
<i>[Signature]</i>	ES CAESAR		400-53990436	D.E.P.H			1 PP 1033	13
<i>[Signature]</i>	A. LOGAN		400-21385581	D.E.M.C			1 PL 1038	14
<i>[Signature]</i>	G. PARKISS		8224568680500402	B.W.H.			1 PL 1043	15
<i>[Signature]</i>	J. WIT		471242671943	D.E.H.			1 PL 1048	16
<i>[Signature]</i>	S. JONES		4776 9347 1488	VIN			1 PP 1054	17
<i>[Signature]</i>	P. DODIE		819447878741				1 PP 1058	18
<i>[Signature]</i>	S.K. Deegan		819007143136	23 VIC			1 PL 1117	19
<i>[Signature]</i>	S. COTTELL		790371297360	AG HAG BIG			1 PL 1123	20
<i>[Signature]</i>	A. REID		81557411448864				1 PP 1129	21
<i>[Signature]</i>			790371200964	138			1 PL 1134	22
<i>[Signature]</i>			7918 64132163				1 PL	23
<i>[Signature]</i>			817296019589				1 PP	24
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00121/00250 3545601

1 From (please print and press hard)Date 7/15/2000 Sender's FedEx Account Number 0630-4724-4Sender's Name J. Philip Foster Phone 314 872-8118Company POLSTER LIEDER WOODRUFF ET AL

Address

763 S NEW BALLAS RD STE 230

Dept/Floor

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FedEx cannot estimate Customs charges. ALL shipments can be subject to Customs charges.

FedEx Tracking Number 8020 1651 0785 Form ID No. 0400**5 Broker Selection**

Not available to all destinations

☐ FedEx International Broker Select

Broker's Name

City/State/Province/Country

ZIP/Postal Code

Phone

VERY IMPORTANT

Service Not all services available to all destinations

☐ FedEx International First
(Postal code required) (higher rates apply)☒ FedEx International Priority
DESCRIPTION☐ FedEx International Economy
(FedEx letter/Pak rate not available)☐ FedEx International Priority Freight
DESCRIPTION**7 Packaging**☒ FedEx Letter ☐ FedEx Pak ☐ Other Packaging**8 Special Handling**

Not all options available to all destinations

Does this shipment contain dangerous goods?*

☒ No (One box must be checked)☐ Yes (See attached Shipper's Declaration)☐ Yes (Support a Declaration)☐ DESCRIPTION☐ CA Cargo Aircraft Only☐ Dry Ice☐ Dry Ice, UN 1845**9 Payment** TRANSPORTATION CHARGES PAID BY:☒ Sender ☐ Recipient ☐ Third Party ☐ Credit CardFedEx Account No. Enter FedEx account no. or Credit Card no. below ☐ Cash/Check

DUTIES AND TAXES PAID BY: FedEx cannot estimate Customs charges

☐ Sender ☐ Recipient ☐ Third Party

FedEx Account No.

Total (Includes Customs charges)

10 Required Signature

By giving us your signature, you agree to the conditions on the back of this Non-Negotiable Air Waybill. Certain international services may apply to this shipment and limit our liability for damage, loss, theft, or delay as described in the Conditions of Contract.

WARNING: Export Administration Regulations. Diversion contrary to U.S. Law prohibited.

Sender's Signature: Executed:

This is not authorization to deliver this shipment without a recipient signature.

Use of this Air Waybill constitutes your agreement to the Conditions of Contract on the back of this Air Waybill. The terms and conditions of service may vary from country to country. Consult our local office for specific information.

FedEx Counter Receipt: Date:

For Tender of Credit shipments only

FedEx Tracking Number 8020 1651 0785 Form ID No.

For Assistance Call 1-800-247-4747

FedEx. International Air Waybill
For all U.S. Export Shipments and shipments between the U.S. and Puerto Rico
Refer to the back of the Destination Station copy of this Air Waybill for completion instructions and a detailed description of above services.PART 131702
Net Date 7/15/2000
PRINTED IN U.S.A.

311

Non-Negotiable
International
Air Waybill
© 1994-97 Federal
Express Corporation

97-SPC

0400

FedEx
Federal ExpressInternational
Air WaybillREMAIN THIS COPY
FOR YOUR RECORDS

SENDER'S COPY



United States

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Tracking Number 802016510785
Reference Number
Ship Date
Delivered To Recipient
Delivery Location EDGBASTON GB
Delivery Date/Time 07/27/2000 11:39
Signed For By M.DEOGAN
Service Type Priority Letter

Tracking Options

- [Obtain a Signature Proof of Delivery](#)
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Scan Activity	Date/Time	Comments
Delivered BIRMINGHAM GB	07/27/2000 11:39	
Placed on Van BIRMINGHAM GB	07/27/2000 07:31	
Arrived at FedEx Destination Location BIRMINGHAM GB	07/27/2000 05:21	
Pkg. Status Exception STANSTED GB	07/27/2000 00:40	In country transit
Left FedEx Sort Facility MEMPHIS TN	07/26/2000 03:31	
Left FedEx Sort Facility MEMPHIS TN	07/26/2000 02:14	
Left FedEx Sort Facility MEMPHIS TN	07/26/2000 02:11	
Arrived at Sort Facility MEMPHIS TN	07/26/2000 00:54	
Arrived at Sort Facility MEMPHIS TN	07/26/2000 00:08	
Arrived at FedEx Ramp BERKELEY MO	07/25/2000 22:07	
Left FedEx Ramp BERKELEY MO	07/25/2000 23:26	
Int. Package Manifest Created EARTH CITY MO	07/25/2000 21:49	
Left FedEx Origin Location EARTH CITY MO	07/25/2000 14:58	

Email Your Detailed Tracking Results

Enter your email (optional), up to three email addresses as recipients, add your message, and click on **Send Email**.

From

To

To

To

Add a message to this email.